

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK HERMAN FISHER,

Plaintiff,

v.

Case No. 03-CV-71804-DT

WILLIAM OVERTON,

Defendant.

ORDER SUBSTITUTING DEFENDANT AND AMENDING CAPTION

This matter stems from Plaintiff's May 2003 civil rights suit naming ten employees of the Michigan Department of Corrections as defendants in their personal and official capacities. The only claim that remains has been asserted against the Director of the Michigan Department of Corrections (MDOC) in his official capacity. When Plaintiff originally filed his Complaint, the Director of MDOC was William Overton. Since that time, however, Mr. Overton has retired, and the new Director of MDOC is Patricia Caruso. (See Def.'s 5/9/05 Mot. to Dismiss at 4.) According to Federal Rule of Civil Procedure 25(d)(1):

When a public officer is a party to an action in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and the officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

Inasmuch as Mr. Overton is no longer the Director of MDOC, and the present action names Mr. Overton only in his *official* capacity, the court will enter an order of substitution pursuant to Rule 25. Accordingly,

IT IS ORDERED that Patricia Caruso, in her official capacity as Director of MDOC, is substituted as the defendant in the above-captioned matter.

IT IS FURTHER ORDERED that the caption of this case in all subsequently filed documents shall reflect Defendant's name as Patricia Caruso.

S/Robert H. Cleland

ROBERT H. CLELAND

UNITED STATES DISTRICT JUDGE

Dated: August 15, 2005

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, August 15, 2005, by electronic and/or ordinary mail.

S/Lisa G. Teets

Case Manager and Deputy Clerk

(313) 234-5522